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FEDERAL COMMUNICATIONS COMMISSION JUL 18 1997  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

**OPPOSITION OF NCTA TO PETITIONS FOR RECONSIDERATION**

The National Cable Television Association, Inc. ("NCTA") hereby opposes certain petitions for reconsideration of the Commission's Fifth and Sixth Reports and Orders in the above-captioned proceeding concerning advanced television ("ATV") and its impact on the existing television broadcast service. NCTA is the principal trade association of the cable television industry, representing the owners and operators of cable systems serving over 80 percent of the nation's cable households as well as over 100 cable programming networks.

In this opposition, we respond to a narrow proposal made by a number of broadcasters including the Association For Maximum Service Telecasters ("Broadcasters") which was echoed by Malrite Communications Group ("Malrite").<sup>1</sup> That proposal, asking the Commission to "ensure the adoption of digital technologies by cable that are compatible with the broadcast Digital Television ("DTV") transmission standard," should be rejected.

<sup>1</sup> Petition for Clarification and Partial Reconsideration of the Fifth and Sixth Reports and Orders submitted by The Association for Maximum Service Telecasters, Inc., The Broadcasters Caucus and Other Broadcasters, MM Docket No. 87-268, filed June 13, 1997 ("Broadcasters' Petition"); Petition for Partial Reconsideration, MM Docket No. 87-268, filed by Malrite Communications Group, Inc., June 13, 1997 ("Malrite Petition").

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The Broadcasters recognize that “important segments of the cable industry have taken voluntary steps to standardize cable digital transmissions,” citing efforts by the Society of Cable Television Engineers (“SCTE”).<sup>2</sup> Nevertheless, they ask the Commission “to adopt firm principles regarding harmonization of the SCTE standard with the DTV standard and, thereafter, to move expeditiously to work out the necessary details for compatibility in a separate proceeding....”<sup>3</sup> Malrite asks the Commission to “require cable companies to adopt appropriate digital technologies compatible with broadcast DTV standards.”<sup>4</sup>

The Commission should reject these attempts to mandate that cable television use the broadcast DTV transmission standard. As the Broadcasters’ Petition concedes, efforts are now underway in which the cable and broadcast industries are seeking common ground regarding transmission of digital signals to the consumer. Commission intervention in setting technical standards would, at best, impede the efforts of these groups and, at worst, stifle innovative solutions to the question of digital transmission by cable.

Since the inception of the Advanced Television Advisory Committee in 1987, the cable television industry has worked with the broadcast industry to develop a broadcast ATV system

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<sup>2</sup> Broadcasters’ Petition at 47-48.

<sup>3</sup> Id. at 48.

<sup>4</sup> Malrite Petition at 6. Malrite suggests that the Commission “modify” its must carry rules to achieve this result. But, clearly, it is not seeking a change in the must carry rules so much as imposition of technical transmission standards on the cable industry which is a different matter. To the extent Malrite seeks reconsideration of the Commission’s decision not to adopt must carry rules for DTV, the Commission correctly concluded that, in light of recent judicial developments, the record was insufficient to reach a conclusion on digital must carry issues and should be updated in a separate proceeding in the future. Fifth Report and Order at ¶106. In any event, as we have said on numerous occasions, only must carry of the broadcasters’ analog channels is required under the Act and sound public policy dictates that there be no digital must carry requirements. See Comments of the National Cable Television Association in MM Docket No. 87-268, filed November 20, 1995 at 6 - 13; Reply Comments of the National Cable Television Association in MM Docket No. 87-268, filed January 22, 1996 at 3-14.

that can be effectively retransmitted over the cable network. In particular, CableLabs conducted laboratory and field tests in coordination with the Grand Alliance manufacturers and the Advanced Television Test Center to ensure that the broadcast high definition system is compatible with cable television.

Despite this involvement, the Commission must recognize -- as the petitioners ignore -- that the FCC Advisory Committee's mandate was to develop a broadcast ATV standard.<sup>5</sup> Indeed, the Advisory Committee was primarily composed of broadcast industry representatives. The recommended standard and the standard adopted by the Commission possesses the attributes and technical capabilities most congenial to over-the-air broadcasting, not coaxial cable. While the cable industry representatives on the Advisory Committee endorsed the Grand Alliance digital HDTV system at the meeting, the industry did not relinquish the opportunity to develop a cable-optimized system in order to better serve its subscribers.

Some in the cable industry may, for example, use a modulation scheme different from the broadcast standard's modulation scheme. This alternative approach will not degrade the quality of retransmitted broadcast signals, and, in any event, may provide other benefits for cable-originated services and cable customers. Setting these last-mile cable standards were neither the goal nor the output of the Advisory Committee and should be left to the ingenuity of the market.

As the Commission has recognized, cable and other distribution media are well on their way toward introducing digital television. Cable system operators are developing various approaches to deploy digital set top box equipment that will enable consumers to access

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<sup>5</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Notice of Inquiry, 2 FCC Rcd 5125, 5125-26 (1987). See also Tentative Decision and Further Notice of Inquiry, 3 FCC Rcd 6520, 6521 (1988).

innovative new services. Meanwhile, cable programmers have announced plans to create new digital niche programming services. As digital technology evolves and becomes more affordable, it will grow over the next 10 to 20 years. The government should not chill this innovation by imposing regulations that limit the capabilities of one provider to the technical limitations of another.

In their Petition, the Broadcasters argue that the “important consumer benefits and the rapid roll-out of DTV that adoption of the DTV broadcast transmission standard makes possible could be lost if equipment manufacturers have to outfit DTV sets with expensive cable decoders to accommodate incompatibility between the DTV transmission standard and cable DTV standards.”<sup>6</sup> This argument is without merit for a number of reasons.

First, it not only gives short shrift to the on-going efforts to reach inter-industry agreement on digital transmission, but also it ignores the fact that digital technology is flexible, robust and highly versatile. Its very nature is that it can be manipulated to suit a variety of modulations and transmission schemes. It is simply not necessary, indeed it is counterproductive, to impose a single standard on all media. Provided the video distribution media use certain common baseline technical specifications to ensure compatibility and interoperability in consumer in-home equipment, there is no need to constrain all media to the broadcast standard and lock out further technological advancements.

Second, it is specious to claim that without a “harmonization” of broadcast and cable DTV standards, manufacturers will have to include expensive decoders in TV sets or consumers will have to buy expensive set top box equipment. But manufacturers and broadcasters have

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<sup>6</sup> Broadcasters’ Petition at 46.

themselves made it clear that they intend to make digital services available to analog viewers by selling set top equipment to consumers until such time as substantial digital television sets are in the market.

Moreover, the Cable-Consumer Electronics Advisory Group ("C3AG") has reached consensus on the development of a hybrid analog/digital multi-pin Decoder Interface Connector for future cable-ready equipment to permit multiple set-back or set-top devices to be plugged into the home receiver. As the Commission has recognized, this technology will ensure that no video delivery system will be able to impede a competing system from accessing the consumer.<sup>7</sup> Consumers will have flexibility to lease or purchase set back equipment from the video provider that offers the combinations of services that they desire. In addition, the Joint Engineering Committee of the Consumer Electronics Manufacturers Association and NCTA are currently working on designs that can accommodate digital sets and further advances in video transmission systems and services.

The public's access to these new services should be determined by market forces, not broadcaster preferences or government mandates. Every distribution medium should have the opportunity to develop a digital system that optimizes its unique capabilities. Applying the broadcast transmission standard to cable systems could artificially constrain cable's delivery of advanced television service and other technologies to the majority of the public. We are confident that interoperability and compatibility among media can be achieved voluntarily in the marketplace. Accordingly, the Commission should reject the Broadcasters' proposal to require cable compliance with a particular modulation or transmission scheme.

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<sup>7</sup> Compatibility Between Cable Systems and Consumer Electronics Equipment, ET Docket No. 93-7, First Report and Order, 9 FCC Rcd 1981, 1988-89 (1994).

### CONCLUSION

For the reasons stated above, the Commission should reject the Petitions filed by the Broadcasters and Malrite to the extent that they would impose a Commission requirement that cable adopt the DTV transmission standard broadcasters intend to use.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Dan L. Brenner", written over a horizontal line.

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July 18, 1997

## **CERTIFICATE OF SERVICE**

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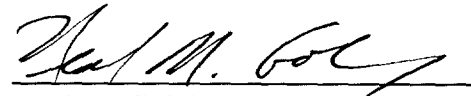
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